IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1071 of 2003

to

FIRST APPEAL No 1073 of 2003

For Approval and Signature:

Hon'ble MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

PROJECT MANAGER OIL & NATURAL GAS CORP.LTD.

Versus

STATE OF GUJARAT

Appearance:

1. First Appeal No. 1071 of 2003

MR AJAY R MEHTA for Petitioner No. 1

MR LB DABHI A.G.P. for Respondent No. 1,2

MR MD VAKIL for Respondent nos.3-3/3

CORAM : MR.JUSTICE M.C.PATEL

Date of decision: 09/07/2003

COMMON ORAL JUDGEMENT

1. Admit. Learned advocate Mr.M.D. Vakil waives service of notice of appeal on behalf of the respondent no.3 - original claimants in all the appeals and Mr.L.B. Dabhi learned A.G.P. waives service of notice of appeal on behalf of respondents nos.1 and 2.

1.1. By consent the appeals are taken up for final hearing.

2. These three appeals under Section 54 of the Land Acquisition Act and Section 96 of the Civil Procedure Code are directed against the common judgment and awards dated 26th July, 2002 passed by the learned Civil Judge (Senior Division), Anand in Land Acquisition Reference nos.208 of 1998 to 210 of 1998.

3. The lands under Reference were situated in village Dahevan, Taluka Borsad, District Kheda. Section 4 Notification was issued on 11.06.1992. The lands were acquired for Drill-sight I.K.T.2 for Oil and Natural Gas Commission. The Special Land Acquisition Officer awarded compensation at the rate of Rs.4/- per sq.mt. On reference under Section 18 of the Act, the Reference Court determined the market value of the land at Rs.30/per sq.mt. The Oil and Natural Gas Commission, which is the acquiring body, has preferred these appeals with leave.

4. It appears that other lands of the same village were also acquired for the same purpose and there were 12 other land References, namely Land Acquisition References Nos.419 of 1994 to 422 of 1994, 267 of 1998 to 271 of 1998 and 1829 of 1994 to 1833 of 1994. They were also disposed of by the same learned Judge by three separate judgments dated July 26, 2002. Three separate groups of appeals were filed by the O.N.G.C. in those cases, namely, First Appeals nos.431 of 2003 to 435 of 2003, 445 of 2003 to 448 of 2003 and 436 of 2003 to 440 of 2003. The Division Bench by judgment and order dated 1st July, 2003 allowed the said appeals on the ground that the reasons have not been assigned by the Reference Court while determining the additional compensation at the rate of Rs.28/- per sq.mt. and the matters were remitted to the Competent Court for redetermination of the compensation payable to the claimants on merits. It is submitted by the learned counsel for the parties that the judgment under challenge in the present appeals, which was delivered by the same learned Judge, also suffers from the same defect and hence the appeals may be allowed

and the matters may be remitted as was done by the Division Bench in other cases.

5. The result is that the appeals succeed and the impugned judgment and awards dated 26th July, 2002 passed by the learned Civil Judge (Senior Division), Anand in Land Acquisition References nos.208, 209 and 210 of 1998 are set-aside and the same are remitted to the Competent Court for redetermination of the compensation payable to the claimants on merits. It is clarified that the claimants would be entitled to adduce evidence before the Reference Court in support of their claim that they are entitled to compensation at the higher rate and the appellant and respondents nos.1 and 2 would be entitled to refute the same. Having regard to the facts and circumstances of the case, the Reference Court is directed to decide the references afresh as early as possible and preferably within three months from the date of the receipt of the writ. There shall be no order as to costs.

[M.C. PATEL, J.]

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